

**BOROUGH OF WESTWOOD
WORK MEETING OF THE MAYOR & COUNCIL
DECEMBER 9, 2008 MINUTES
MUNICIPAL COMPLEX
101 Washington Avenue
7:30 PM Executive Closed Session/8:00 pm Work Session**

1. Opening of the Meeting:

The meeting was called to order by Mayor Birkner at 7:30 pm. Mayor Birkner then read the Open Public Meetings Law Statement: "This meeting which conforms with the Open Public Meetings law, Chapter 231, Public Laws of 1975, is a regular Borough Council meeting. Notices have been filed with our local official newspapers and posted on the municipal bulletin board."

2. Roll Call:

Mayor Birkner - present
Councilmember Grefrath - present
Councilmember Miller - present
Councilmember Phayre - present
Councilmember Quinn - present
Councilmember Sciara - present
Council President Waneck - present
Borough Administrator Hoffmann - present
Borough Attorney Huntington - present
Borough Clerk Hughes - present

Committee Assignments:

Finance, Administration & Capital Projects
Police & OEM
Fire & Ambulance
Health & Recreation
Public Properties
Land Use

3. Executive Closed Session:

RESOLVED THAT the Mayor and Council of the Borough of Westwood shall convene in Executive Closed Session to discuss the following matters:

Personnel Matters
Pending/Potential Litigation
Attorney's Report

Said discussions are deemed legally confidential pursuant to NJSA 10:4-12(b)

- (7) Litigation or contract negotiation, attorney/client
- (8) Employment matters

The Clerk is directed to keep separate minutes of the meeting which shall be made public once that matter has been resolved.

Motion to enter Closed Session with the intention to reconvene in Open Session:

Councilmember Sciara Second: Councilmember Quinn

Roll Call: Councilmember Grefrath - Yes

Councilmember Miller - Yes
Councilmember Phayre - Yes
Councilmember Quinn - Yes
Councilmember Sciara - Yes
Council President Waneck - Yes

4. Reopen the Meeting:

Motion to reopen the meeting: Councilmember Sciara

Second: Councilmember Quinn

Voice Vote: A voice vote was taken with all present voting in the affirmative.

The time was 8:15 pm.

5. Roll Call II:

Mayor Birkner - present

Councilmember Grefrath - present

Councilmember Miller - present

Councilmember Phayre - present

Councilmember Quinn - present

Councilmember Sciara - present

Council President Waneck - present

Borough Administrator Hoffmann - present

Borough Attorney Huntington - present

Borough Engineer Boswell - present

Borough Clerk Hughes - present

6. Flag Salute:

Mayor Birkner led those present in the salute to the flag

7. Reports of Committees and Officials:

A) Mayor's Report

1) COAH Plan

Mayor Birkner introduced Borough Planner Ed Snieckus, who discussed the COAH Housing Element and Fair Share Plan documents. He discussed the various affordable housing unit obligations. Because of existing credits based on the Westwood House and several group homes, there is no new zoning required in the Borough. However, the Planning Board may be presenting an ordinance to the Governing Body that would require at least one in four units of any new development must be Affordable Housing.

Mr. Snieckus advised that the Planning Board has adopted the Housing Element and Fair Share Plan as part of the Master Plan and has recommended that the Governing Body submit the plan for certification by December 31.

Council President Waneck asked the consequences of not submitting the plan. Mr. Huntington said it is possible that COAH may grant an emergency extension of the deadline because many municipalities do not have plans ready. He explained that the consequences of not petitioning in a timely matter are unknown because of the pending court challenge to set aside Third Round regulations. The Borough may lose its ability to keep the Affordable Housing Trust Funds under the Borough's control. It

may also lose the ability to control housing density. Council President Waneck noted those consequences are untried. Councilmember Sciara questioned the impact of a builder's remedy. Mr. Huntington stated that the Planning Board and Governing Body's role is to place the Borough in position to be compliant. He commented that even without any vacant land the Borough is still vulnerable, since tear downs can lead to higher density. Mr. Huntington recommended obeying the COAH mandate if there is no more impact on the community than cost.

Council President Waneck believes there is no need to adopt an ordinance mandating 1 in 4 constructed units be Affordable. Mr. Huntington said the ordinance will allow a set aside. He discussed the Developers Fee. Mr. Huntington pointed out it is hard to speculate the affect for non compliance. Mayor Birkner said the Borough has a good plan and should move forward with it. When Mr. Huntington said there would be enough funds from the Development Fees to build a modest building of all Affordable units, Councilmember Sciara questioned who defines 'affordable'. Mr. Huntington said COAH uses a complicated formula to define the cost of an Affordable unit.

Council President Waneck asked about the percentage in the Development Fee ordinance. Mr. Huntington explained that the COAH regulations Administrative Code states a 3% fee. In July Governor Corzine cut the fee to 2.5% but nobody amended the COAH regulations. Mr. Huntington said we introduced the ordinance at 3%. Upon discovering the mistake, the ordinance was change to 2.5%, all of which will be reviewed at the next meeting.

Mr. Huntington discussed the resolution on the Fair Share Plan and Housing Element scheduled for adoption. Council President Waneck commended Mr. Snieckus for positioning the Borough for compliance by the deadline. Mayor Birkner commented that the vision of former Mayor Bellon for the Westwood House has played a tremendous role, which Council President Waneck believes was mostly luck. Mr. Huntington said initially COAH did not want to credit the Westwood House units, but municipalities fought and won having the cutoff date changed. Mr. Huntington said other municipalities without a Westwood House are looking at big problems. Mayor Birkner said the Borough's neighboring communities are planning on complying with the Third Round regulations.

Resolution #08 - 371: Petitioning With An Adopted Housing Element And Fair Share Plan

Motion to adopt resolutions #08-371: Council President Waneck

Second: Councilmember Sciara

Roll Call: Councilmember Grefrath - Yes

Councilmember Miller - Yes

Councilmember Phayre - Yes

Councilmember Quinn – Yes, with reservation on COAH as a whole
Councilmember Sciara - Yes
Council President Waneck - Yes, with reservation on COAH as a whole

Mr. Huntington suggested a pithy letter be sent to COAH voicing the Council's reservations.

2) Westvale Park

Mayor Birkner announced that the Brownfields division of the DEP will be in Westwood on December 16th to review the Westvale grant. Councilmember Quinn asked if there is a projected date on the grant decision. Mr. Hoffmann said they were hoping to decide between November and January. Mayor Birkner said as soon as we receive funding and make decisions on the plans Boswell Engineering is ready to go with the improvements. Council President Waneck said she had some changes to the Boswell draft plans, and asked if the discussion should wait until the funding is received. Dr. Boswell requested the plans be discussed now. Council President Waneck questioned whether a pavilion would be permitted on the landfill. Mayor Birkner said there will be no utilities, just electric. It will be a covered eating area. Mayor Birkner said the concession stand would be off the landfill. Council President Waneck asked where the Community Center would be. Dr. Boswell said it will be located where the parking lot is now. Councilmember Quinn asked where the playground will be. Dr. Boswell pointed out that it would be where the roller hockey rink was originally placed. Councilmember Sciara asked if the pavilion slab would have the same settling issues as the roller rink. Dr. Boswell said it would be a floating pad. There was further discussion on the location of the playground.

3) HUMC Update

Mayor Birkner explained that the State Department of Health has submitted a second round of questions on the Certificate of Need to HUMC. The State is awaiting HUMC's responses to the questions. Mayor Birkner reported on a meeting with several Pascack and Northern Valley mayors and the Certificate of Need Review Committee from the State Department of Health. They discussed the criteria and hearing process. Mayor Birkner said the economic impact is not important to the Department of Health, but rather the public need for a hospital. The Committee advised that public support is the biggest factor. They were impressed by the number of signatures on the petition, which they believe will carry a lot of weight in the decision. Mayor Birkner advised that there will be two hearings as part of the determination process. The first hearing will be held at the Westwood Regional High School. He requested that the various communities identify speakers for that hearing ahead of time. The Mayors will be meeting with HUMC to create an action plan. Mayor Birkner recommended that HUMC come back with the Legacy Group to give a presentation at a public meeting similar to the one held in May. This meeting would be in January prior to the public hearing.

Councilmember Quinn asked if this same process was used when PVH opened the

first time 50 years ago. Mayor Birkner said it's not relevant to the current application. He noted the criteria for the State to issue the Certificate of Need included accessibility, identifying need, specificity of service for services not available elsewhere, plus two others. The Commissioner's staff will make recommendations as well. They are unconcerned with the economic impact to the region, the loss of jobs, and the zoning issues. Their focus is the need for hospital services. Councilmember Miller pointed out that the disregard for economic impact affects Valley and Englewood Hospitals' arguments. Mayor Birkner said the opposition is still positioned very well to make their case. Mayor Birkner said that at the meeting he discussed the Reinhardt report that Valley and Englewood are using, which says there are too many beds in the region. Now there are 700 fewer beds. The Commissioner's staff said they have to look at that as a living document in today's atmosphere. Regardless, Mayor Birkner feels the opposition has a strong argument which is why HUMC is working so hard to make their argument as sound as possible.

3) Proposed Resolution

Mayor Birkner discussed a proposed resolution from the League of Municipalities on the Federal economic stimulus package. Council President Waneck questioned whether any municipalities have already adopted this resolution. She asked for the criteria that determine eligibility for the proposed grant money, and where the money comes from to pay for this.

B) Engineer's Report

1) Bi-weekly Report

Dr. Boswell reviewed the biweekly Engineer's report. A copy of the report is attached.

2) 2009 Road Program

Dr. Boswell will complete the details of the 2009 Road Program once the Governing Body reviews and approves the list of streets

3) Pending Bids

Dr. Boswell advised that the Pascack Brook Sewer Rehabilitation and the Westvale Park Recreation Improvement projects will both be ready to bid by the end of January.

4) Irvington Street Section 1

Dr. Boswell announced that Section 1 of the Irvington Street project is completed.

5) Emerson Road Pump Station

The generator delivery for the Emerson Road Pump Station was delayed. The generator should be delivered this week. Dr. Boswell noted that this is the only pump station he is aware of with two backup generators. He advised that the data acquisition and control system has a web-based monitoring system, which can be controlled from anywhere. It also emails alarms. It is included the first year for free. The Borough may want to continue this service in the future.

6) CDBG Grant

Mr. Hoffmann announced that the Westwood Avenue ADA work is not eligible under the CDBG grant because the residential percentage in the downtown area is not high enough. He asked the Governing Body if they would like to allocate resources to remove the crosswalks on Westwood Avenue, which he estimates to cost approximately \$80,000.00. Dr. Boswell said the crosswalks could be replaced by imprints once the County completed the paving. Councilmember Grefrath asked if there was a no-cost option. Dr. Boswell said it would be not having the road resurfaced, since the County will not pave Westwood Avenue if the crosswalks are not removed. Mr. Hoffmann pointed out that the CDBG can be revised to include other areas. Dr. Boswell suggested lobbying the County Executive for an exception. Council President Waneck proposed the unpaved roads as an alternate for the grant. Mr. Hoffmann advised that there is approximately \$137,000 in unused bond funds from past road projects available for use in the 2009 Road Program. He asked how the Governing Body would like to use these funds. Council President Waneck requested information on assessing the homeowners on Lincoln and Trenton. Mr. Huntington said historically the builder or original settlers paid for improving the street. He remembered that in 1999 or 2000, there were five assessment programs. Affected residents attended a meeting and were informed that the assessment would be over a ten year period. Dr. Boswell noted that the cost of a street improvement can be greater than the increased value it brings to the home. The Borough can only assess based on the increased value. The rest of the taxpayers would end up paying the balance of the project. Councilmember Grefrath pointed out that there is only one home that fronts Trenton. Dr. Boswell said it is possible to assess any homes that have linear footage on the street. Council President Waneck suggested looking into paving and assessing Trenton and Lincoln for 2010. Councilmember Sciara observed that Lincoln is the one residents want improved. Trenton is less of a priority, since the lack of pavement keeps it from being a cut-through. Mr. Huntington mentioned numerous scenarios, such as vacating the street entirely, making it one way, or installing rolled curbs instead of concrete curbs. The Council consensus was to concentrate on Lincoln and develop a plan. Dr. Boswell will submit a proposal for paving Lincoln. Meanwhile he will move forward with the 2009 road program.

Council President Waneck suggested holding the \$137,000 in reserve for Lincoln. Mr. Hoffmann pointed out that when letters were sent in 2007 to the residents of Lincoln about paving, only one responded positively. Mr. Woods and Dr. Boswell observed that the road paving list is ambitious. Council President Waneck said she would like to keep up with 15 year program.

C) Council Liaison & Committee Reports

1) Finance, Administration and Capital Projects:

a) 2009 Budget

Councilmember Grefrath reported that the Department Heads are working on their budget worksheets for 2009.

b) Shade Tree Update

Councilmember Grefrath reported that the Shade Tree Committee oversaw the planting of 90 trees by the DPW in 2008. They are hoping for 90 trees in 2009. The Shade Tree Committee has applied for a grant for tree inventory software. Council President Waneck asked if the newly planted trees were listed on the website. They are not. Councilmember Grefrath advised that in 2009 the Shade Tree Committee will review ordinance.

2) Police and OEM:

a) OEM Meeting Follow Up

Mayor Birkner asked Councilmember Miller if he has updated the draft follow up letter from the OEM meeting. Councilmember Miller said he has received the draft letter, but still needs to review it. He will forward it to everyone for their comments.

3) Fire and Ambulance:

a) Fire Department Update

Councilmember Phayre reported that the Fire Department has seen several active fires. Santa Claus is very busy, starts making the rounds next week on the fire truck. The Fire Department was Santa's ride to the Home for the Holidays parade.

4) Public Properties:

a) DPW Update

Councilmember Sciara advised that leaves can no longer be raked into the street for collection. The DPW has a large supply of salt on hand, ready for inclement weather.

b) Heritage Society Update

Heritage society has volumes of prints for Councilmember Sciara to pick out for framing and putting up around Borough Hall and other Borough buildings.

c) Train Station Vandalism

Councilmember Sciara reported that the train station is being frequently vandalized. He stated the Police Department needs to be more vigilant. Mayor Birkner said the Police have discussed applying to Homeland Security for video surveillance equipment. Mr. Hoffmann stated that he has sent a letter to NJ Transit asking for assistance against vandalism. Councilmember Phayre asked under whose jurisdiction vandalism at the station falls. Mr. Hoffmann said both the Borough and NJ Transit, but NJ Transit would like the Westwood Police Department to handle it, since the Borough's response time is quicker.

5) Land Use:

a) Goals

Council President Waneck thanked the Mayor, Council, Administrator and Clerk for submitting their 2009 goals by the deadline. Council President Waneck said the Borough did well on meeting the 2008 goals. They will be posted on the website. Council President Waneck asked everyone to review the 2009 goals and comment on them. She feels it is a quite ambitious and aggressive list. Council President Waneck said Mr. Hoffmann distributed a list of 2008 accomplishments. She said the Council should review it and comment on where Mr. Hoffmann should put more time or less time. Council President Waneck said Mr. Hoffmann has provided a grant list. She would like it in a spreadsheet and will provide him with a model. Mr. Hoffmann said he can put it into an Excel spreadsheet. Council President Waneck wants to include all department grants. Mayor Birkner complimented Council President Waneck on her work with the goals.

6) Health and Recreation:

a) Voorhis Park

Councilmember Quinn announced that the Voorhis Park playground is being assembled. It is not completely finished yet due to weather and a delayed delivery of the mulch. Council President Waneck said a resident has asked her if plantings at the end of Stratton could buffer the big red fire truck. Mr. Huntington said the Police may not want to obstruct the playground from view.

b) Home for the Holidays

Councilmember Quinn thanked Mike Pelligrino, Mike Fitzsimmons, and all the volunteers, who made Home for the Holidays such a nice parade.

D) Attorney's Report

1) COAH Update

Mr. Huntington reported that the Borough is compliant with the third round COAH regulations.

2) Film Ordinance

Mr. Huntington requested the Governing Body submit their comments on the draft film ordinance so it can be introduced in January.

3) Ambulance Building Lease

Mr. Huntington discussed the Ambulance Corps request for a lease from the Borough for their portion of the Borough Hall building. They have provided a draft lease, which Mr. Huntington advised would need many changes. Councilmember Grefrath asked why it the lease is being requested. Mr. Huntington said it arises out of a case in another town where an ambulance corps didn't think it was answerable to the Governing Body for certain things. That Governing Body threatened to evict the ambulance corps if they did not adhere to the policies. Mr. Huntington believes that will not happen in Westwood. However, he recommended that if the Governing Body would like to give the Ambulance Corps a lease to give them a sense of comfort, it is reasonable to do so. Councilmember Phayre noted the Westwood Ambulance Corps contributes much to the community. The consensus is for Mr. Huntington to draft an acceptable lease. Council President Waneck added the matter to the short term goals.

E) Administrator's / Clerk's Report

1) Section 125

Mr. Hoffmann noted that the Section 125 plan has been previously discussed. To date two employees have inquired about the Opt Out option. Mr. Hoffmann advised that the BMED has been recommending reimbursement of 35% of the premium, which is approximately an employee's combined federal and state tax rate. Mr. Hoffmann said some aspects of this discussion are appropriate for closed session as personnel management issues. It is recommended by the BMED to have both the Section 125 and the Opt Out plans. The discussion to link or not to link the plans is more appropriate for closed session. Councilmember Phayre asked if

this was motivated by the two people asking for it. Mr. Hoffmann said no.

2) 2009 Meeting Schedule

Mrs. Hughes asked if the Governing Body would like to start closed sessions at 7:00 pm on a regular basis in 2009. The consensus was to leave the start time at 7:30 and change it when necessary.

3) Utility Management Contract

Mr. Hoffmann explained the need to look at fire hydrant service and per inch water charges. It seems there is a different per inch charge for each municipality in the area. Councilmember Phayre noted that there is no cash outlay for the management contract, but it is commissioned at 40% of the savings per month. Mr. Huntington pointed out that each municipality is billed individually by United Water for water use. This company will look at and suggest the restructure of that billing system. Councilmember Phayre asked if they will audit past bills. Mr. Huntington said this is a single project to look at hydrants. Mr. Hoffmann advised that the Borough used this company in the past for a street light audit. Councilmember Phayre asked for information on the company.

Councilmember Grefrath asked if the 2006 billing issue over \$700 for the lights at Meadowbrook was ever resolved. It is still pending.

4) Borough Hall Parking Lot

Councilmember Sciara asked where the Borough Hall parking lot project stands. Mr. Hoffmann said it is waiting on the contractor. Mr. Woods said Kelly Donohue is hoping to begin the project shortly.

10. Agenda/Public Forum:

Motion to open the Agenda/Public Forum: Councilmember Grefrath

Second: Councilmember Sciara

Voice Vote: A voice vote was taken with all present voting in the affirmative.

There were no members of the public who wished to be heard

Motion to Close the Agenda/Public Forum: Councilmember Grefrath

Second: Councilmember Sciara

Voice Vote: A voice vote was taken with all present voting in the affirmative.

11. Presentation of Bills, Financial Reports and Resolutions:

The following Resolutions were enacted in one motion. Councilmembers who wished to remove any Resolution(s) to be voted upon separately, had the opportunity to do so at this time, and said Resolutions were considered separately.

Mayor Birkner asked if any Councilmember had any questions on the resolutions. Councilmember Quinn had a question on the bills list pertaining to the traveling basketball team.

It was determined that item would be approved conditionally pending further information on whether the expenditure is reimbursed by the registration fees.

Resolutions as Consent Agenda:

Resolution #08 - 372: Bill List & Statement of Cash

Resolution #08 - 373: Authorizing A Shared Service Utility Management Contract

Resolution #08 - 374: Transfer of Appropriations

Resolution #08 - 375: Certificate of Redemption, Tax Sale Certificate #99-003

Resolution #08 - 376: Authorizing Refund of Taxes B 1504 L5.01

Resolution #08 - 377: Authorizing Refund of Taxes B 1803 L 10

Resolution #08 - 378: Authorizing Refund of Taxes B 1509 L 19

Resolution #08 - 379: Authorizing Refund of Taxes B 408 L 26

Resolution #08 - 380: Raffle License #367 – Westwood Elks Lodge #1562

Resolution #08 - 381: Authorizing Payments to Wagner Hohns Inglis Inc.

Motion to adopt resolutions #08-372 through #08-381: Councilmember Grefrath

Second: Council President Waneck

Roll Call: Councilmember Grefrath - Yes

Councilmember Miller - Yes

Councilmember Phayre - Yes

Councilmember Quinn - Yes

Councilmember Sciara - Yes

Council President Waneck - Yes

12. Adjournment:

Motion to adjourn: Councilmember Sciara

Second: Councilmember Miller

Voice Vote: A voice vote was taken with all present voting in the affirmative.

The time was 10:02 pm.

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Work Meeting of the Mayor and Council
December 9, 2008

Attest:

(signed) Karen Hughes
Karen Hughes, RMC, Borough Clerk

Proofed by: Denise Holmes, Deputy Clerk
Robert S. Hoffmann, Borough Administrator